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**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 3061

**DONALD JOHN SCAGGS**  
40922 Cherokee Oaks Dr.  
Three Rivers, CA 93271  
Pharmacist Certificate No. RPH 26162

**DECISION AND ORDER**


The attached Stipulated Settlement and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 8, 2007.

It is so ORDERED July 9, 2007.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



WILLIAM POWERS  
Board President

1 EDMUND G. BROWN, JR., Attorney General  
of the State of California  
2 JESSICA M. AMGWERD, State Bar No. 155757  
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6 Attorneys for Complainant  
7

8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3061

11 **DONALD JOHN SCAGGS**  
40922 Cherokee Oaks Dr.  
12 Three Rivers, CA 93271

**STIPULATED SETTLEMENT;  
ORDER AND DECISION**

13 Pharmacist Certificate No. RPH 26162  
14  
15

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
17 proceeding that the following matters are true: --

18 PARTIES

19 1. Virginia Herold (Complainant) is the Executive Officer of the Board of  
20 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
21 by Edmund G. Brown, Jr., Attorney General of the State of California, by Jessica M. Amgwerd,  
22 Deputy Attorney General.

23 2. Donald John Scaggs ("Respondent"), is represented by John K. Jackson,  
24 whose office is located at 900 W. Main St. Visalia, CA 93291.

25 JURISDICTION

26 3. Accusation No. 3061 was filed before the Board of Pharmacy (Board),  
27 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
28 and all other statutorily required documents were properly served on Respondent on April 9,

1 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of  
2 Accusation No. 3061 (also referred to as Case No. 3061) is attached as exhibit A and  
3 incorporated herein by reference.

#### 4 ADVISEMENT AND WAIVERS

5 4. Respondent has carefully read, and understands the charges and allegations  
6 in Accusation No. 3061. Respondent also has carefully read, and understands the effects of this  
7 Stipulated Settlement.

8 5. Respondent is fully aware of his legal rights in this matter, including the  
9 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
10 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;  
11 the right to present evidence and to testify on his own behalf; the right to the issuance of  
12 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
13 reconsideration and court review of an adverse decision; and all other rights accorded by the  
14 California Administrative Procedure Act and other applicable laws.

15 6. Respondent voluntarily, knowingly, and intelligently waives and gives up  
16 each and every right set forth above.

17 8. This settlement shall be for the purposes of this proceedings, any future  
18 proceedings before the parties and any other actions taken by or before any governmental agency  
19 responsible for licensing, and shall not be used for any civil or criminal proceedings.

#### 20 CULPABILITY

21 9 Respondent admits he violated Business and Professions Code sections  
22 4301(f), 4301(j), 4301(h), and 4301(o), based upon the following conduct from January 2005 to  
23 September 2006, while working as a pharmacist at Walmart Pharmacy in Visalia, California:

- 24 a. Respondent fraudulently appropriated and diverted controlled substances  
25 and/or dangerous drugs, including Vicodin, Norco, and Celebrex.
- 26 b. Respondent possessed varying quantities of controlled substances,  
27 including Norco, Vicodin, and Celebrex, without a lawful prescription.
- 28 c. Respondent self administered controlled substances and/or dangerous  
drugs, including Norco, Vicodin, and Celebrex.

Respondent agrees that cause exists for discipline of his Pharmacist License No. RPH 26162.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order disciplining his Pharmacist Certificate No. RPH 26162.

#### CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

#### ORDER

IT IS HEREBY ORDERED that Pharmacist Certificate No. RPH 26162, issued to Respondent Donald John Scaggs, is revoked. The revocation, however, is immediately stayed and Respondent is placed on a probation for five (5) years. Additionally, Respondent agrees to the following terms and conditions:

1. **Suspension.** Pharmacist Certificate No. RPH 26162 issued to Respondent is suspended for sixty (60) days one year, with credit for time documented not practicing. Additionally, prior to resuming practice, Respondent must show evidence that the

1 PRP approves a return to practice.

2                   2.       **Obey All Laws.** Respondent shall obey all state and federal laws and  
3 regulations substantially related to or governing the practice of pharmacy.

4                   Respondent shall report any of the following occurrences to the Board, in writing,  
5 within 72 hours of such occurrence:

- 6           •       An arrest or issuance of a criminal complaint for violation of any provision of the  
7                   Pharmacy Law, state and federal food and drug laws, or state and federal  
8                   controlled substances laws.
- 9           •       A plea of guilty or nolo contendere in any state or federal criminal proceeding to  
10                  any criminal complaint, information or indictment.
- 11           •       A conviction of any crime.
- 12           •       Discipline, citation, or other administrative action filed by any state and federal  
13                  agency which involves Respondent's pharmacist license or which is related to  
14                  the practice of pharmacy or the manufacturing, obtaining, handling or  
15                  distribution or billing or charging for any drug, device or controlled substance.

16                   3.       **Reporting to the Board.** Respondent shall report to the Board  
17 quarterly. The report shall be made either in person or in writing, as directed. Respondent  
18 shall state under penalty of perjury whether there has been compliance with all the terms and  
19 conditions of probation. If the final probation report is not made as directed, probation shall  
20 be extended automatically until such time as the final report is made and accepted by the  
21 Board.

22                   4.       **Interview with the Board.** Upon receipt of reasonable notice,  
23 Respondent shall appear in person for interviews with the Board upon request at various  
24 intervals at a location to be determined by the Board. Failure to appear for a scheduled  
25 interview without prior notification to Board staff shall be considered a violation of probation.

26                   5.       **Cooperation with Board Staff.** Respondent shall cooperate with the  
27 Board's inspectional program and in the Board's monitoring and investigation of Respondent's  
28 compliance with the terms and conditions of his probation. Failure to comply shall be  
considered a violation of probation.

                  6.       **Continuing Education.** Respondent shall provide evidence of efforts

1 to maintain skill and knowledge as a pharmacist as directed by the Board.

2           7.     **Notice to Employers.** Respondent shall notify all present and  
3 prospective employers of the decision in case number 3061 and the terms, conditions and  
4 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of  
5 this decision, and within 15 days of Respondent undertaking new employment, Respondent  
6 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in  
7 writing acknowledging the employer has read the decision in case number 3061. If  
8 Respondent works for or is employed by or through a pharmacy employment service,  
9 Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every  
10 pharmacy of the and terms conditions of the decision in case number 3061 in advance of the  
11 Respondent commencing work at each pharmacy.

12           "Employment" within the meaning of this provision shall include any full-time, part-  
13 time, temporary, relief or pharmacy management service as a pharmacist, whether the  
14 Respondent is considered an employee or independent contractor.

15           8.     **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**  
16 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern  
17 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the  
18 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this  
19 order.

20           9.     **Reimbursement of Board Costs.** Respondent shall pay to the Board  
21 its costs of investigation and prosecution in the amount of Three Thousand Two Hundred  
22 Fifty Dollars (\$3,250.00). Said costs shall be paid within sixty days of the effective date of the  
23 Decision, or upon good cause shown Respondent may be permitted to pay quarterly payments  
24 in a payment plan approved by the Board, with payments to be completed no later than three  
25 months prior to the end of the probation term.

26           The filing of bankruptcy by Respondent shall not relieve Respondent of his  
27 responsibility to reimburse the Board its costs of investigation and prosecution.

28           10.    **Probation Monitoring Costs.** Respondent shall pay the costs

1 associated with probation monitoring as determined by the Board each and every year of  
2 probation. Such costs shall be payable to the Board at the end of each year of probation.  
3 Failure to pay such costs shall be considered a violation of probation.

4           **11. Status of License.** Respondent shall, at all times while on probation,  
5 maintain an active current license with the Board, including any period during which  
6 suspension or probation is tolled.

7           If Respondent's license expires or is canceled by operation of law or otherwise,  
8 upon renewal or reapplication, Respondent's license shall be subject to all terms and  
9 conditions of this probation not previously satisfied.

10           **12. License Surrender while on Probation/Suspension.** Following the  
11 effective date of this decision, should Respondent cease practice due to retirement or health, or  
12 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender  
13 her license to the Board for surrender. The Board shall have the discretion whether to grant  
14 the request for surrender or take any other action it deems appropriate and reasonable. Upon  
15 formal acceptance of the surrender of the license, Respondent will no longer be subject to the  
16 terms and conditions of probation.

17           Upon acceptance of the surrender, Respondent shall relinquish her pocket  
18 license to the Board within 10 days of notification by the Board that the surrender is accepted.  
19 Respondent may not reapply for any license from the Board for three years from the effective  
20 date of the surrender. Respondent shall meet all requirements applicable to the license sought  
21 as of the date the application for that license is submitted to the Board.

22           **13. Notification of Employment/Mailing Address Change.** Respondent  
23 shall notify the Board in writing within 10 days of any change of employment. Said  
24 notification shall include the reasons for leaving and/or the address of the new employer,  
25 supervisor or owner and work schedule if known. Respondent shall notify the Board in  
26 writing within 10 days of a change in name, mailing address or phone number.

27           **14. Tolling of Probation.** Should Respondent, regardless of residency, for  
28 any reason cease practicing pharmacy for a minimum of forty hours per calendar month in

1 California, Respondent must notify the Board in writing within 10 days of cessation of the  
2 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time  
3 shall not apply to the reduction of the probation period. It is a violation of probation for  
4 Respondent's probation to remain tolled pursuant to the provisions of this condition for a  
5 period exceeding three years.

6 "Cessation of practice" means any period of time exceeding 30 days in which  
7 Respondent is not engaged in the practice of pharmacy as defined in Section  
8 4052 of the Business and Professions Code.

9 15. **Supervised Practice.** Respondent shall practice only under the  
10 supervision of a pharmacist not on probation with the Board. Respondent shall not practice  
11 until the supervisor is approved by the Board. The supervision shall be, as required by the  
12 Board, either:

13 Continuous - 75% to 100% of a work week

14 Substantial - At least 50% of a work week

15 Partial - At least 25% of a work week

16 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

17 Within 30 days of the effective date of this decision, Respondent shall have her  
18 supervisor submit notification to the board in writing stating the supervisor has read the  
19 decision in Case No. 3061 and is familiar with the level of supervision as determined by the  
20 Board. If Respondent changes employment, respondent shall have her new supervisor, within  
21 15 days after employment commences, submit notification to the Board in writing stating the  
22 direct supervisor and pharmacist-in-charge have read the decision in Case No. 3061 and is  
23 familiar with the level of supervision as determined by the Board.

24 Within 10, days of leaving employment, respondent shall notify the board in  
25 writing.

26 16. **Violation of Probation.** If Respondent violates probation in any  
27 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke  
28 probation and carry out the disciplinary order which was stayed. If a petition to revoke



1 probation or an accusation is filed against Respondent during probation, the Board shall have  
2 continuing jurisdiction and the period of probation shall be extended, until the petition to  
3 revoke probation or accusation is heard and decided.

4 If Respondent has not complied with any term or condition of probation, the  
5 Board shall have continuing jurisdiction over Respondent, and probation shall automatically  
6 be extended until all terms and conditions have been satisfied or the Board has taken other  
7 action as deemed appropriate to treat the failure to comply as a violation of probation, to  
8 terminate probation, and to impose the penalty which was stayed.

9 17. **Completion of Probation.** Upon successful completion of probation,  
10 Respondent's license will be fully restored.

11 18. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**  
12 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists  
13 Recovery Program for evaluation and shall successfully participate in and complete the  
14 treatment contract and any subsequent addendums as recommended and provided by the PRP  
15 and as approved by the Board. The costs for PRP participation shall be borne by the  
16 Respondent.

17 If Respondent is currently enrolled in the PRP, said participation is now  
18 mandatory and is no longer considered a self-referral under Business and Professions Code  
19 section 4363, as of the effective date of this decision. Respondent shall successfully  
20 participate in and complete his current contract and any subsequent addendums with the PRP.  
21 Probation shall be automatically extended until Respondent successfully completes his  
22 treatment contract. Any person terminated from the program shall be automatically suspended  
23 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified  
24 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate  
25 probation for any violation of this term.

26 20. **Random Drug Screening.** Respondent, at her own expense, shall  
27 participate in random testing, including but not limited to biological fluid testing (urine,  
28 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.

1 The length of time shall be for the entire probation period and the frequency of testing will be  
2 determined by the Board. At all times Respondent shall fully cooperate with the Board, and  
3 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,  
4 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as  
5 directed shall constitute a violation of probation. Any confirmed positive drug test shall result  
6 in the immediate suspension of practice by Respondent. Respondent may not resume the  
7 practice of pharmacy until notified by the Board in writing.

8           **21. Abstain from Drugs and Alcohol Use.** Respondent shall completely  
9 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their  
10 associated paraphernalia except when the drugs are lawfully prescribed by a licensed  
11 practitioner as part of a documented medical treatment. Upon request of the Board,  
12 Respondent shall provide documentation from the licensed practitioner that the prescription  
13 was legitimately issued and is a necessary part of the treatment of the Respondent.

14           **22. No Ownership of Premises.** Respondent shall not own, have any legal  
15 or beneficial interest in, or serve as a manager, administrator, member, officer, director,  
16 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter  
17 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any  
18 entity licensed by the Board within 90 days following the effective date of this decision and  
19 shall immediately thereafter provide written proof thereof to the Board.

20           **23. Criminal Probation/Parole Reports.** Respondent shall provide a  
21 copy of the conditions of any criminal probation/parole to the Board, in writing, within 10  
22 days of the issuance or modification of those conditions. Respondent shall provide the name  
23 of his probation/parole officer to the Board, in writing, within 10 days after that officer is  
24 designated or a replacement for that officer is designated. Respondent shall provide a copy of  
25 all criminal probation/parole reports to the Board within 10 days after Respondent receives a  
26 copy of such a report.

27           **24. Tolling of Suspension.** If Respondent leaves California to reside or  
28 practice outside this state, for any period exceeding 10 days (including vacation), Respondent

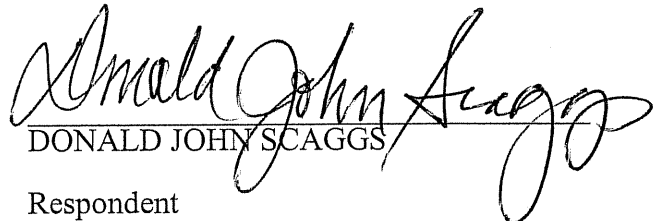
1 must notify the Board in writing of the dates of departure and return. Periods of residency or  
2 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the  
3 reduction of the suspension period.

4 Respondent shall not practice pharmacy upon returning to this state until  
5 notified by the Board that the period of suspension has been completed.

6 **ACCEPTANCE**

7 I have carefully read the Stipulation, Decision and Order. I understand the  
8 stipulation and the effect it will have on my Pharmacist Certificate No. RPH 26162, and have  
9 spoken to my attorney about the stipulation. I enter into this stipulation voluntarily,  
10 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of  
11 Pharmacy.

12 DATED: 5/16/07.

13  
14   
15 DONALD JOHN SCAGGS  
16 Respondent

17 Dated: 5/16/07

18 JOHN K. JACKSON .

19 By:

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JOHN K. JACKSON, ESQ.

21 Attorney for Respondent  
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DATED: May 22, 2007.

Jessica M. Amgwerd  
JESSICA M. AMGWERD  
Deputy Attorney General

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**Exhibit A**  
**Accusation No. 3061**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 ELENA L. ALMANZO, State Bar No. 131058  
Deputy Attorney General  
4 California Department of Justice  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-5524  
Facsimile: (916) 327-8643  
7

Attorneys for Complainant

8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3061

12 DONALD JOHN SCAGGS  
13 40922 Cherokee Oaks Dr.  
Three Rivers, CA 93271  
14 Pharmacist Certificate No. RPH 26162

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Virginia K. Herold (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
21 Affairs.

22 2. On or about July 15, 1969, the Board of Pharmacy issued Pharmacist  
23 Certificate Number RPH 26162 to Donald John Scaggs (Respondent). Said license shall expire  
24 on December 31, 2008, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

1                   4.       Section 4300 of the Code states in pertinent part:

2                   "(a) Every license issued may be suspended or revoked.

3                   "(b) The board shall discipline the holder of any license issued by the board,  
4 whose default has been entered or whose case has been heard by the board and found guilty, by  
5 any of the following methods:

6                   "(1) Suspending judgment.

7                   "(2) Placing him or her upon probation.

8                   "(3) Suspending his or her right to practice for a period not exceeding one year.

9                   "(4) Revoking his or her license.

10                  "(5) Taking any other action in relation to disciplining him or her as the board in  
11 its discretion may deem proper."

12                  5.       Section 4301 of the Code states in pertinent part:

13                  "The board shall take action against any holder of a license who is guilty of  
14 unprofessional conduct or whose license has been procured by fraud or misrepresentation or  
15 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
16 following:

17                  "(f) The commission of any act involving moral turpitude, dishonesty, fraud,  
18 deceit, or corruption, whether the act is committed in the course of relations as a licensee or  
19 otherwise, and whether the act is a felony or misdemeanor or not.

20                  "(h) The administering to oneself, of any controlled substance, or the use of any  
21 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
22 injurious to oneself, to a person holding a license under this chapter, or to any other person or to  
23 the public, or to the extent that the use impairs the ability of the person to conduct with safety to  
24 the public the practice authorized by the license.

25                  "(j) The violation of any of the statutes of this state or of the United States  
26 regulating controlled substances and dangerous drugs.

27                  "(o) Violating or attempting to violate, directly or indirectly, or assisting in or  
28 abetting the violation of or conspiring to violate any provision or term of this chapter or of the

1 applicable federal and state laws and regulations governing pharmacy, including regulations  
2 established by the board.

3           6.       Section 125.3 of the Code states, in pertinent part, that the Board may  
4 request the administrative law judge to direct a licensee found to have committed a violation or  
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
6 and enforcement of the case.

7           7.       Section 4022 of the Code states:

8           "Dangerous drug" or "dangerous device" means any drug or device unsafe for  
9 self-use, except veterinary drugs that are labeled as such, and includes the following:

10           "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing  
11 without prescription," "Rx only," or words of similar import.

12           "(b) Any device that bears the statement: "Caution: federal law restricts this  
13 device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the  
14 blank to be filled in with the designation of the practitioner licensed to use or order use of the  
15 device.

16           "(c) Any other drug or device that by federal or state law can be lawfully  
17 dispensed only on prescription or furnished pursuant to Section 4006."

18           8.       Section 4059 of the Code states, in pertinent part, that a person may not  
19 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,  
20 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the  
21 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

22           9.       Section 4060 of the Code states:

23           "No person shall possess any controlled substance, except that furnished to a  
24 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished  
25 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse  
26 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This  
27 section shall not apply to the possession of any controlled substance by a manufacturer,  
28 wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse



1 practitioner, or physician assistant, when in stock in containers correctly labeled with the name  
2 and address of the supplier or producer.

3 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,  
4 or a physician assistant to order his or her own stock of dangerous drugs and devices."

5 10. Section 4327 of the Code states:

6 "Any person who, while on duty, sells, dispenses or compounds any drug while under the  
7 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

8 11. "Norco" is a compound consisting of 10 mg. hydrocodone bitartrate also  
9 known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and  
10 Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet.

11 12. "Celebrex" is a dangerous drug as defined by Code section 4022.

12 13. Health and Safety Code section 11350(A) provides that every person who  
13 possesses any controlled substance classified in Schedule III, IV, or V, which is a narcotic drug,  
14 unless upon written prescription of physician, dentist, podiatrist, or veterinarian, is subject to  
15 imprisonment in state prison.

16 14. Health and Safety Code section 11170 provides that no person shall prescribe,  
17 administer, or furnish a controlled substance for himself.

18 FIRST CAUSE FOR DISCIPLINE

19 (Commission of an Act of Dishonesty, Fraud, Deceit, or Corruption )

20 15. Respondent is subject to disciplinary action under section 4301 (f) for  
21 commission of an act of dishonesty, fraud, deceit, or corruption in that from January of 2005 to  
22 September of 2006 while employed as a pharmacist at Walmart Pharmacy in Visalia California,  
23 respondent stole at least 2,100 tablets of hydrocodone containing schedule III controlled  
24 substance medications, and 280 tablet of Celebrex. The circumstances were as follows:

25 A. On or about September 8, 2006, Board Inspector, Rick Iknoian, met  
26 with the respondent to discuss a report of theft of controlled substances from the pharmacy stock  
27 at Walmart Pharmacy located at 1819 E. Noble, Visalia, California.

28 B. During the interview, respondent admitted that starting in January of 2005 and

1 continuing to September of 2006, respondent took and self-administered hydrocodone-containing  
2 medications. Respondent specifically admitted to taking Norco. Respondent admitted he took  
3 10 to 20 tablets of Norco per week increasing over time to 6 tablets per day by September of  
4 2006. Respondent also admitted to taking 3 to 4 tablets of Celebrex for the same 20 month  
5 period.

6 C. Respondent admitted that he took the Norco and Celebrex while at work during  
7 working hours when he was dispensing prescriptions.

8 D. An audit was conducted for the period of May 1, 2003 to September 6,  
9 2006, of the pharmacy inventory to document the losses of hydrocodone/acetaminophen 10/35.  
10 The result of the audit showed a loss of 11,051 tablets.

#### 11 SECOND CAUSE FOR DISCIPLINE

12 (Possession )

13 16. Respondent is subject to disciplinary action under code section 4301  
14 subds. (j) and (o) in that he possessed a controlled substances without a prescription therefore in  
15 violation of Code section 4060 and Health and Safety Code section 11350, subd. (a) in that from  
16 January of 2005 to September of 2006, respondent took hydrocodone-containing medications  
17 and Celebrex from the pharmacy stock and self-administered them without a prescription as set  
18 forth more specifically above in paragraphs 11 A through C.

#### 19 THIRD CAUSE FOR DISCIPLINE

20 (Self-administration of a Controlled Substance)

21 17. Respondent is subject to disciplinary action under pursuant to Code  
22 section 4301, subd. (h) and (o) in conjunction with Health and Safety Code section 11170 in that  
23 from January 5, 2005 to September of 2006, respondent self-administered controlled substances  
24 without having a prescription therefor as set forth more specifically in paragraph 11 A through C.

#### 25 FOURTH CAUSE FOR DISCIPLINE

26 (Practicing Under the Influence)

27 18. Respondent is subject to disciplinary action for unprofessional conduct  
28 pursuant to Code section 4301, subd. (o) in conjunction with Code section 4327 that from

1 approximately January of 2005 to September of 2006, respondent violated federal and state laws  
2 and regulations governing pharmacy by obtaining controlled substances without having a  
3 prescription, self-administering the controlled substances at work, while preparing ,  
4 compounding, dispensing, and providing patient care as set forth more specifically in paragraph  
5 11 A through C.

6 PRAYER

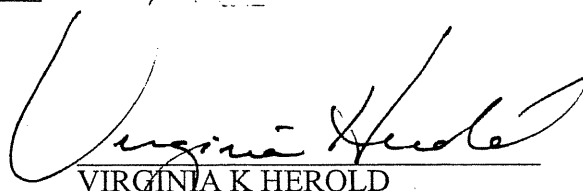
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
8 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

9 A. Revoking or suspending Pharmacist Certificate Number RPH 26162,  
10 issued to Donald John Scaggs.

11 B. Ordering Donald John Scaggs to pay the Board of Pharmacy the  
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
13 Professions Code section 125.3; and

14 C. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: 3/31/07

17  
18 

19 VIRGINIA K HEROLD  
20 Executive Officer  
21 Board of Pharmacy  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant

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